



MONTANA STATE TAX APPEAL BOARD

1209 8th Avenue
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EXHIBIT 6
DATE 1/12/11
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To: General Government Appropriations Subcommittee

From: Montana State Tax Appeal Board
on behalf of all tax appeal boards
Karen Powell, Chairwoman

January 2011

Please do not hesitate to contact the Board with any questions:

Karen Powell, Chairwoman
(406) 444-5394 (direct)
Samantha Sanchez, member
Douglas Kaercher, member
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Constitutional and statutory History of the Board

The Montana Constitution requires that:

The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level." (Article VIII, Section 7).

The State Tax Appeal Board is the mechanism the legislature chose to implement this Constitutional requirement. There are also 56 county tax appeal boards (CTAB) authorized by the legislature to fulfill the Constitutional requirement for a local review procedure. Each board has three members, appointed by the County Commission, and a secretary. The State Board trains and oversees the county boards and pays all the costs of their work. Those costs are included in our budget request.

Key words in the Constitutional language are "independent" and "taxpayer grievances". The State Board exists to hear "taxpayer grievances."

The State Board is administratively attached to the Department of Administration (DOA), not the Department of Revenue (DOR). We provide an independent review of the decisions of the DOR. In our hearings, the Taxpayer (whether a homeowner in your district or the largest corporation in the state) is on an equal footing with the DOR. We hear cases ranging from multi-billion dollar valuations (centrally assessed properties) to value of properties under \$100,000.

2009 Reappraisal and Budget Request (DP3701)

- Reappraisal of residential, commercial and agricultural property stimulates the largest number of appeals to the county and state boards. In 2009, agricultural land has had its first comprehensive review since 1963. Residential, commercial and forestland property values were also reappraised, so all class 3, 4 and 10 property received an assessment notice.
- Both the state and county tax appeal boards saw a substantial increase in cases during the last biennium. We requested, and received, additional funding in the prior biennium to help with increased county tax appeal board expenses due to reappraisal. We expended all of this one-time-only funding in each fiscal year, and have significant numbers of cases still pending with the counties.



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- For these reasons, the Board is requesting additional funding to process the increased appeals in a timely and appropriate manner. (A one-time appropriation would cover the majority of the appeal costs).

The funding increase is based on the number of appeals the boards heard in the first two years of the last appeal cycle (new values became effective 1/1/09). The 2009 reappraisal resulted in 2,879 appeals filed statewide with the county tax appeal boards and 159 filed with the State Tax Appeal Board in calendar year 2009. In 2010, we saw 713 county tax appeal board filings, with 22 filed with the state board, but thousands of informal appeals are pending.

The State Tax Appeal Board (STAB) is a three member Board, funded through the general fund. The Board hears appeals from decisions of the 56 county tax appeal boards and takes original jurisdiction in matters involving income taxes, corporate taxes, severance taxes, centrally assessed property, new industry, cabin site lease valuations, motor fuels, and tobacco taxes. Appeals are generally handled through an administrative hearing, which establishes the complete record of the case. The district courts do not hold another hearing.

The board used to travel throughout the state to hear appeals and to train the county boards. However, we reallocated our travel budget to cover the costs of county tax appeal board operations. The State Board pays the county tax appeal board member costs, the county tax appeal board salaries, and expenses for all 56 county tax appeal boards.

The table provides case information for the 1993 through 2009 statewide reappraisals:

Calendar year	County Tax Appeal Boards Appeals	State Board appeals from the County*
1993 (reappraisal year)	4,072	2,537
1994	694	109
1995	173	53
1996 (reappraisal year) – 1 st year with phase-in	105	22
1997	571	170
1998	156	37
1999	165	51
2000-2002	474	39
2003 (reappraisal year)	341	128
2004	67	18
2005	35	15
2006-2008	46	16
2009 (reappraisal year)	2,879	159
2010	713	22

* does not include direct appeals to the State Tax Appeal Board



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Response to LFD Comment p A-222: The high vacancy rate in the county tax appeal board FTE's is partially due to a directive to shift funding streams. In response to a request from DOA Human Services Division, we moved most secretaries from state (FTE) to county employee status (we reimburse counties). We still, however, are responsible for the payroll costs. The current reappraisal has required a significant increase in secretarial activity, especially in those counties hit hardest by reappraisal: Flathead, Gallatin and Lake. Secretarial costs for those counties totaled \$18,184.48 for calendar years 2009 and 2010. The remainder of the counties' secretarial expense was \$9,952.85 for 2009 and 2010. Our budget also absorbed increased costs from the Board members' per diem and travel expenses.

In FY2009, STAB spent its total budget (except \$725.00). In FY2010, STAB was \$10,000 over budget due to 2009 reappraisal case load. In the current FY2010, at the midway point, we have spent most of the \$21,000 OTO money allocated for reappraisal costs at the county tax appeal board level. We expect an overall shortfall by fiscal year end.

As of December 30, 2010, there were 4,761 AB26 requests for review pending from tax year 2009 and 713 appeals yet unheard at the county level (more appeals could arise from the 4,761 AB26 requests.) These numbers will result in more CTAB expense to process these appeals.

Budget Status:

This Board has eliminated travel in order to provide more funds for the county tax appeal board operations.*

By statute passed last legislative session, the Board moved from the classification pay system to the broadband pay system. When the HR Consultants in the DOA analyzed positions and determined the pay level appropriate to the Board's responsibilities, a function they perform for all positions being moved into the broadband system, a market adjustment was deemed necessary. The pay level recommended by the Department of Administration was approved by the Governor. Funding from the .6 flexible funding was given to all full-time employees in accordance with the DOA policy directive.

The LFA is inaccurate in stating that turnover at the board has been due to term limits. Board member terms are 6 year appointments, with no term limits. Since 2000, there has been one board position that has required three appointments over a six year term, and was vacant for almost three months before a new appointee could be recruited. One other board appointment left mid-term due, at least in part, to low salary.

*FY2010: OTO monies were \$36,400, allocated as follows:

Personal services: \$26,000; spent \$21,600

Operating: \$4,000; spent \$4,118.48

Assistance to counties (reimburse counties for county tax appeal board secretarial cost): \$6,400; spent \$10,681.52

FY2011: OTO monies are \$21,000, \$20,376.55 to date, leaving \$623.45, allocated as follows:

Personal Services: \$9,000; spent to date: \$10,845

Operating: \$9,000; spent to date: \$2,950.72

Assistance to counties: \$3,000; spent to date: \$6,580.83